**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 328 OF 2005

IN

First Appeal (St.)No. 11833/2003

Suryakant K. Sheth & Anr. ..Applicants.

Versus

Smt.Hiraben Motilal Shah & Anr. ..Respondents.

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Shri S.I. Memon for the Applicants.

Shri Y.R. Shah for the Respondent No.1.

Shri J.J. Xavier for Respondent No.2.

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**CORAM : D. G. DESHPANDE,J.**

**DATE : 20TH JUNE, 2005**

**P.C. :**

. Heard Advocates for the Applicants and Respondent Nos. 1 and 2. Objection is taken by the counsel for Respondent No.1 for joining Applicant No.2 because he was not the party to the suit. The counsel for the Applicant agrees to delete his name and take out appropriate proceedings with reference to his rights in the suit property as a transferee, after the passing of the decree. Therefore, the name of applicant No.2 has been deleted.

. So far as delay is concerned, it is of 207 days. Two applications separately were made by the applicant for certified copy of the judgment and decree and that was the cause for delay because of the misunderstanding of the facts. The application is strongly opposed by the Respondent No.1. Counsel for the BMC concedes for grant of prayer of the applicant. Looking to the facts and circumstances, the delay is condoned subject to the payment of cost of Rs. 1000/- to the Respondent No.1. Payment of cost is condition precedent. Cost to be paid within two weeks. Civil Application is disposed of.

. Put up the matter after two weeks.

20.06.2005 (D.G. DESHPANDE,J.)

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